



NATIONAL LABOR RELATIONS BOARD

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NLRB CHAIRMAN GOULD URGES SENATE TO DEFEAT TEAM ACT

Chairman William B. Gould IV of the National Labor Relations Board is urging the Senate to defeat the TEAM Act because it "does not provide for democracy in the workplace" and would "permit employers to dominate employees."

The NLRB Chairman contends "the proposal is inconsistent with the most basic teachings of our Constitution and the National Labor Relations Act itself. And accordingly the Senate should reject it."

The House passed the TEAM Act (H.R. 743) on September 27, 1995. The Senate could vote on the bill (S.295) as early as next week. Mr. Gould's views on the measure are contained in an address prepared for delivery tomorrow at Creighton University School of Law in Omaha, Nebraska.

Mr. Gould said "anything that permits employee involvement, participation and cooperation between employees and managers ... is to the good." The Clinton Board has attempted to promote cooperation between both sides in both a union and non-union environment, he stated. The Republican Party's solution to this issue, however, "is classic overkill of a kind which could promote the discredited company unions which the National Labor Relations Act was designed to repress," he charged, adding:

The TEAM Act, as written, actually should be called the Employee Domination Act since it would allow employers to impose representational arrangements -- and those which provide for no effective representation -- upon employees regardless of their wishes, appointing the workers' representatives for them and determining what issues should be taken up and what the structure of the system would be.

The TEAM Act is contrary to the democratic assumptions of America's society which presuppose our ability and basic right to select representatives of our own choosing -- assumptions which ought to be applicable to the employment relationship.

Notwithstanding the flawed nature of the TEAM Act, Mr. Gould said "there are pitfalls and ambiguities in Section 8(a)(2) of the National Labor Relations Act which make its amendment desirable-- just as there are problems with other provisions of our law which impede effective union organizational efforts and balanced collective bargaining."

Explaining deficiencies in the current law, Mr. Gould stated:

First, while the Act prohibits 'financial' assistance or other 'support,' these terms are not self-defining. Literally, if an employer were to grant an employee committee the use of plant facilities, such as copying machines and meeting rooms, it would run afoul of the statute -- although it is unusual to find a violation on this basis. Second, in an even more bizarre way, the Act makes it unlawful to dominate or assist an organization that is concerned with employment conditions. At the same time, an organization in which the employees and employer representatives discuss so-called 'managerial' matters such as production quality or sales is beyond the purview of the statute, thus immunizing the 'top down' imposition of employee structures upon workers from legal regulation.

In a non-union situation, the sensible response to all of this is to allow employee groups, with or without a management representative component, to discuss anything that they would like to, whether it be wages, break periods or the problems confronted in selling the product. The more that workers know about the enterprise and the better that they are able to participate effectively in decision making, the more likely it is that both democratic values and competitiveness are enhanced. And, if the law is simplified, lay people -- ordinary workers and small business persons -- will be able to adapt to their own circumstances and avoid reliance upon wasteful litigation and the high priced counsel that go with it.

The NLRB chairman pointed out that in his concurring opinion in *Keeler Brass*, he expressed the view that if an employer created an employee participation organization in response to a union organizational campaign, he would "... draw the inference that the organization was designed to thwart employee independence and free choice."

In response to critics who contend he should not speak out on labor law reform issues, Mr. Gould said he was acting in a manner compatible with NLRB tradition. He cited Harry Millis and Paul Herzog as former NLRB Chairmen who expressed their views on labor law reform to Presidents Roosevelt and Truman, respectively, to Congress and to the general public. He stated:

So I will continue to speak out on issues and add as best I can to the public debate. I will not be muzzled by any quarter as I carry out my duties as NLRB Chairman.

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